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OFFICE OF PETITIONS

ON PETITION

In re Application of
MING-HUNG TSENG, et al.
Application No. 10/759,670
Filed: January 16, 2004
Attorney Docket No. TS02-1240

This is a decision on the petition under 37 CFR 1.137(a), filed May 31, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application was abandoned for failure to timely file a proper response to the non-final office action dated September 13, 2005 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 14, 2005.

The instant petition was filed on the basis that the attorney of record never received the office action dated September 13, 2005. Petitioner submitted as evidence his docket record for the instant application along with statements by the attorney of record, Steven E. Koffs, and the paralegal, Joy Chou, from the assignee's intellectual property department at the address where the office action was mailed.

The showing submitted is sufficient to establish unavoidable delay within the meaning of 35 U.S.C. §133 and 37 CFR 1.137(a). Accordingly, the reply to the non-final Office action of September 13, 2005 is accepted as having been unavoidably delayed.


The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of an amendment; (2) the petition fee of \$500 for large entity; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

It is noted that the Revocation and Substitution of Power of Attorney filed on January 28, 2005 appointed power of attorney to two customer numbers along with two additional individual practitioners. Where an applicant appoints all of the practitioners associated with a customer number, as well as a list of individually named practitioners, such action would be treated as only an appointment of all of the practitioners associated with a customer number due to the potential

for confusion and data entry errors. Furthermore, more than one customer number cannot be applied to the power of attorney in one application, and effective June 25, 2004, the associate power of attorney practice has been eliminated. See MPEP 403 section I. Customer Practice. Accordingly, the additional attorneys stated on the revocation has not been accepted, and power of attorney has only be granted to customer number 08933.

This application is being referred to the Technology Center Art Unit 2834 for appropriate action on the amendment filed with the instant petition on May 31, 2006.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.


Frances Hicks
Lead Petitions Examiner
Office of Petitions